

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BONILLA,

Plaintiff,

v.

,

Defendant.

Case No. [17-cv-06705-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Re: Dkt. Nos. 2, 4

Plaintiff Steven Wayne Bonilla, a state inmate, has filed a pro se complaint, which he labels “In re to the Matter of Steven Wayne Bonilla” and entitles, “Ruling Is A Nullity.” Bonilla has also filed a motion for expedited review and a motion for reconsideration. The clerk has docketed this action as a petition for a writ of mandamus. In this document, Bonilla seeks to have this Court reverse the state trial court’s criminal judgment against him. Bonilla has been disqualified from proceeding in forma pauperis under 28 U.S.C. § 1915(g) unless he is “under imminent danger of serious physical injury” at the time he filed his complaint. 28 U.S.C. 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR).

The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, he may not proceed in forma pauperis. Furthermore, he may not proceed even if he pays the filing fee because this court lacks mandamus jurisdiction over a state court. *See* 28 U.S.C. §§ 1361; 1651. Section 1361 provides, “[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” *Id.*

Furthermore, the relief Plaintiff seeks pertains to his ongoing attempts to invalidate his state criminal conviction. Such claims, if raised, must be brought by Bonilla's counsel in his pending federal habeas corpus action, *Bonilla v. Ayers*, No. C 08-0471 YGR (PR).

This is not a case in which the undersigned judge's impartiality might be reasonably questioned. *See United States v. Holland*, 519 F.3d 909, 912 (9th Cir. 2008) (absent legitimate reason to recuse himself or herself, judge has a duty to sit in judgment in all cases assigned to that judge).

The Clerk shall terminate all pending motions and close this case. The Clerk shall return, without filing, any further documents Bonilla submits after this case is closed.

IT IS SO ORDERED.

Dated: November 30, 2017



VINCE CHHABRIA
United States District Judge